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OFFICE OF PETITIONS

In re Application of :
Takeshi Takezawa : DECISION ON
Application No. 10/798,448 : PETITION
Filed: March 12, 2004 :
Atty Docket No. 119082 :

This is a decision on the "REQUEST FOR CORRECTION OF PALM RECORDS," filed March 29, 2005, requesting that the above-identified application be accorded a filing date of March 12, 2004, rather than the presently accorded filing date of November 3, 2004.

Application papers in the above-identified application were deposited on March 12, 2004. However, on September 7, 2004, the Initial Patent Examination Division (IPED) mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without a complete specification as prescribed by 35 U.S.C. 112. In addition, replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121, an English language translation of the non-English language application, a statement that the translation is accurate, and the processing fee set forth in § 1.17(i). This Notice set a two month period for reply, with extensions of time obtainable under § 1.136(a).

On November 3, 2004, applicants timely filed a response, including an English translation of the application. However, applicants did not respond with a petition under § 1.53(e)(2),

or any other section, requesting review of the Notification that the application had not been accorded a filing date. Upon receipt of these additional papers, the Office accorded the application a filing date of November 3, 2004.

Petitioner is advised that pursuant to 37 CFR § 1.181(f), a petition under § 1.53(e)(2) not filed within two months of the action complained of may be dismissed as untimely, without consideration on the merits. However, under the circumstances of the case, discretion will be exercised in favor of petitioner and the petition will be considered on the merits.

Petitioner requests that the filing date be corrected to state a date of March 12, 2004. As stated previously, and apparently unbeknownst to petitioner, the Office accorded a filing date of November 3, 2004, based on the date of submission of the English translation of the application. This was in error.

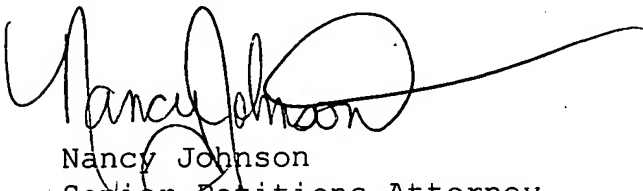
The Office will accord a filing date to an application meeting the requirements of 35 U.S.C. 111(a), even though some or all of the application papers, including the written description and the claims, are in a language other than English and hence does not comply with 37 CFR 1.52. A review of the application file reveals that the application as filed, though not in English, was entitled to a filing date of March 12, 2004.

In view thereof, the petition is GRANTED.

Given the basis for granting the petition, although authorized, the petition fee will not be charged to petitioner's Deposit Account.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for correction of the filing date to March 12, 2004 and mailing of a corrected filing receipt.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.


Nancy Johnson
Senior Petitions Attorney
Office of Petitions